

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RONNIE TIMMONS,)	
Petitioner,)	
)	
v.)	3:07-CV-1730-M
)	
NATHANIEL QUARTERMAN, Director,)	
Texas Department of Criminal Justice,)	
Correctional Institutions Division,)	
Respondent.)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the District Court filed on July 22, 2009, Petitioner's amended complaint and motion for appointment of counsel, filed on July 7, 2009, have been referred to the undersigned for recommendation or determination.

The findings, conclusions and recommendation of the Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

On February 19, 2008, the District Court dismissed this habeas corpus action for want of jurisdiction because Petitioner could not satisfy the in custody requirement with respect to his theft convictions. To the extent Petitioner sought monetary relief stemming from his convictions, the Court dismissed his claim with prejudice as frivolous to its being asserted again until the *Heck* conditions are met. The Fifth Circuit Court of Appeals dismissed Petitioner's appeal for want of prosecution on May 22, 2008. Thereafter, the Court twice denied Petitioner's request to reopen the case and for default judgment. *See* Orders filed on June 26, 2008, and January 21, 2009.

The amended complaint reiterates the same claims alleged in the original petition filed in

this case. Insofar as Petitioner seeks to reinstate this case, his request should be denied. As previously noted, the District Court's orders speak for themselves.

RECOMMENDATION:

For the foregoing reasons, it is recommended that Petitioner's request to reinstate this case be denied, and that his motion to appoint counsel (Document #33) be denied as moot.

A copy of this recommendation will be transmitted to Petitioner.

Signed this 28th day of July, 2009.


WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.